

Before the
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Notice of Market Dominant Price
Adjustment

Docket No. R2012-3

PUBLIC REPRESENTATIVE COMMENTS
IN RESPONSE TO UNITED STATES POSTAL SERVICE NOTICE OF MARKET
DOMINANT PRICE ADJUSTMENTS

(November 8, 2011)

The Public Representative provides comments on the Postal Service's Notice of Market Dominant Price Adjustments effective January 22, 2012, filed pursuant to 39 U.S.C. 3622 and 39 CFR part 3010.¹ The Price Adjustment Notice also proposes mail classification changes and revisions to the Mail Classification Schedule. The Public Representative's comments are in response to Order No. 921 and are intended to assist the Commission in its determination of whether the Postal Service's filing and justifications in this proceeding comply with the requirements of the title 39.²

I. INTRODUCTION

In conformity with 39 CFR 3010.14(b)(1) through (4) the Postal Service has provided information on the applicable CPI-U price cap, the amount of unused price adjustment authority available for each class of mail, the percentage change in prices for each class of mail and the amount of new unused price adjustment authority as a

¹ United States Postal Service Notice of Market Dominant Price Adjustment, October 18, 2011 (Notice). See also Notice of the United States Postal Service of filed revised USPS-R2012-3/NP1 [Errata], November 3, 2011.

² Notice and Order on Planned Rate Adjustments and Classification Changes for Market Dominant Postal Products, October 11, 2011 (Order No. 921).

result of this price change. The annual price cap limitation on changes in rates for this proceeding is 2.133 percent. *Id.* at 1. This is based on a 12-month moving average of the Consumer Price Index-All Urban Consumers (CPI-U) and in conformity with the limitations prescribed in 39 CFR 3010.22.

II. BACKGROUND

This is the fourth review of Postal Service plans to change prices for most market dominant products pursuant to section 3622 of the Postal Accountability and Enhancement Act, Pub L. 109-435, 120 Stat. 3198 (2006) (PAEA). The first review of price adjustments for market-dominant products was filed February 11, 2008. In that proceeding the Commission issued Order No. 66, accepting all but one of the price adjustments.³ The second notice of price adjustments for market-dominant products was filed on February 10, 2009. The Commission issued Order No. 191 and found that the price adjustments were within the annual limitation and properly reflected the statutory preferences of 39 U.S.C. 3626. The Commission also determined that workshare discounts satisfied the requirements of 39 U.S.C. 3622(e).⁴ No notice of price adjustment was filed in 2010 because of the negative CPI-U calculation for the applicable period. On January 13, 2011, the Postal Service proposed its third price adjustments for most market-dominant products. In its review of the Postal Service's price adjustments, the Commission addressed particular pricing issues with Standard Mail Flats, unapproved methodological principles and compliance with the price cap.⁵ In the current proceeding the Public Representative observes that the Postal Service's Price Adjustment Notice includes adjustments from changes in products in the mail

³ See Docket No. R2008-1, Review of Postal Service Notice of Market-Dominant Price Adjustment, March 17, 2008 (Order No. 66).

⁴ See Docket No. R2009-2, Order Reviewing Postal Service Market-Dominant Price Adjustments, March 16, 2009 (Order No. 191).

⁵ See Docket No. R2011-2, Order Revising Postal Service Market-Dominant Price Adjustments, February 16, 2011 (Order No. 675).

classification schedule that result in unused price authority intended to be used in future years for price increases in categories of other products. Other issues including the Postal Service's intention to incentivize mail volume by offering selective discounts are addressed in part IV below.

III. THE POSTAL NOTICE COMPLIES WITH THE FOLLOWING COMMISSION RULES

The Postal Service's Notice provides the required information which supports its compliance with the annual price cap limitation and also demonstrates compliance with applicable Commission rules for this Type 1-A price adjustment to rates of general applicability.⁶

Section 3010.2 (b) The Adjustment Notice includes a table of remaining unused rate adjustment authority for each class applicable for subsequent determinations of unused rate adjustment authority. Price Adjustment Notice at 6. If volumes are adjusted by the Commission pursuant to the Annual Compliance Review for FY 2010 impacting one of the price adjustments, the new unused rate adjustment authority must be modified.

Section 3010.3(b) The limitations on rate adjustments, by class, are determined by section 3010.11 and section 3010.12. The Adjustment Notice includes a table of proposed changes, by class, all of which are less than the mandatory annual limitation. Price Adjustment Notice at 5. The rate increases in each class appear to be within or fall below the annual limitation.

⁶ See 39 CFR Part 3010 (§3010.3) issued pursuant to 39 U.S.C. 3622(d)(1)(D).

Section 3010.14(a) The Adjustment Notice includes three types of required standard information: proposed rate schedules and their effective dates, evidence of public notice of the rate adjustment, and the name of the Postal Service official who will respond to requests for additional information.

Section 3010.14(b) This rule requires that the Postal Service file supporting documentation and justifications for the rate adjustments along with its Rate Adjustment Notice. The Postal Service has included in its notice the required information including the amount of the applicable change in CPI-U calculated in conformity with 39 CFR 3010.22, applicable workpapers with calculations, input values, current rates, new rates, and billing determinants with source information, unused rate authority, schedule of workshare discounts, and how the workshare discounts are to achieve the objectives in 39 U.S.C. 3622. The Postal Service has provided each of the ten elements required by the rule.

IV. DISCUSSION

The Public Representative presents a discussion of specific issues identified in the Postal Service's filing as enumerated below:

1. Price Cap Compliance;
2. Price Changes;
3. Work share discounts and price increases;
4. Mail Classification Schedule changes.

1. Price Cap Compliance

The nine month partial year price cap limitation on changes in rates for this proceeding is 2.133 percent. This is based upon the most recently available data

through August 2011 from the National Bureau of Labor Statistics while removing the effects of the increases that also occurred during the preceding 12 months overlapping the prior filing of the rate adjustment. The Postal Service's current filing complies with 39 CFR 3010.22(b) adjusting the moving average because less than 12 months has passed since the most recent price change filed January 13, 2011.⁷

In this filing the Postal Service has elected not to draw on its banked authority. The below average increases accorded to Standard Mail and Special Services adds to the unused pricing authority from previous cases and can be used for future rate increases to products within the same Class.

It is the Public Representative's view that in consideration of the billing determinants and cost and revenue estimates assumed by the Postal Service, the calculations of the planned price adjustment comply with the rate cap limitation in 39 U.S.C. § 3622(d). The Public Representative has reviewed the Postal Service's proposal and responses to CHIR No. 1, and concludes that based on the information presented at this time the total price adjustment for each class of mail falls within the price cap limitation and provides the information to conform to the general requirements of the Commission's rules.

2. Price Changes

SPECIAL SERVICES

All classes of mail receive an average increase with a below average increase given to Standard Mail and a negative increase for Special Services. The Public Representative notes that the price adjustment for Special Services includes a large price reduction for Delivery Confirmation and Confirm Services.

⁷ See Docket No. R2011-2, United States Postal Service Notice of Market-Dominant Price Adjustment, January 13, 2011. See *also*, United States Postal Service Notice of Errata to Notice of Market-Dominant Price Adjustment, January 26, 2011.

Confirm Services

Confirm is being dropped as similar services are introduced by the rollout of the Intelligent Mail Barcode (IMB). The worksheet submitted by the Postal Service for the price change for Confirm includes volumes with no corresponding new prices adding to the unused banked authority.⁸ The Public Representative finds this acceptable as the volumes reported are the latest available annual volumes from billing determinants and can be substituted as proxies for current subscriptions that have not yet expired. The Postal Service states that it will offer the Confirm Service free of charge to customers until the expiration of their current subscriptions as an incentive to enroll into IMB.

Delivery Confirmation Services

The Postal Service states that Electronic Parcel Select Light Weight is being moved to Competitive Products and the prices will be adjusted for this product during the competitive product rate increase. Notice at 19.

The Public Representative notes that the Postal Service has included volumes in its worksheet for Delivery Confirmation of its Electronic Parcel Select Light Weight product with no corresponding new prices, creating an increase in unused banked authority for a product being moved to the Competitive category. In future years there will not be a similar adjustment as the new and existing prices would be zero thus having no impact on the price change. In the initial year of the move of a product from the Market-Dominant to the Competitive category this method creates unused rate authority that can subsequently be used to increase the prices of other products in its Class in the Market Dominant category.

Rule 3010.23(d) states that “the Postal Service shall make reasonable adjustments to the billing determinants to account for the effects of classification changes such as the introduction, deletion, or redefinition of rate cells.” It is logical that

⁸ United States Postal Service Notice of Market-Dominant Price Adjustment, Docket No. R2012-3, USPS-LR-R2012-3/5/Special Services Cap Compliance, October 18, 2011.

an estimated weight would be entered to calculate proposed rates for additions to the Class and similarly weights should be deleted when the product is eliminated or moved to Competitive Products. The Postal Service removed volumes for NFMs in Standard Mail when they moved the product to the Competitive category. By not deleting the volumes for Delivery Confirmation attaching to the products that were moved to the Competitive category the Postal Service is not only inconsistent with the application of its methodology among the Classes but it is not in compliance with Rule 3010.23(d) of making adjustments for the redefinition of rate cells.

PO Boxes

The Public Representative notes that only one PO Box Size was adjusted as there was not sufficient cap left to adjust the other sizes. She also notes that in the past, the Postal Service has adjusted the Size 1 PO Boxes when there was a dearth of cap leaving the other sizes unadjusted.⁹

PO Box Size 1 Category customers are the customers paying the highest prices as they are located in urban areas such as DC and Atlanta. This creates an undue burden on these customers in light of the new initiative of the Postal Service of transferring a certain number of PO Boxes to the Competitive category.

FIRST CLASS

Commercial mailers use the free 2nd ounce and the Postal Service does state that the free 2nd oz is to incentivize volume from these mailers. There is no recent cost data available to estimate the costs to the Postal Service for the 2nd free ounce. It

⁹ See Docket No. R2011-2, United States Postal Service Notice of Market-Dominant Price Adjustment, January 13, 2011, Attachment USPS R2011-2-5, "P.O. Boxes".

appears that the Processing costs for the additional ounce is insignificant¹⁰ and Delivery and Transportation costs should be likewise. As such this incentive to increase volume should be offered to single-piece First-Class customers as well.

3. Workshare Discounts and Price Increases

Section 3622(e) of the PAEA requires the Postal Service to justify any worksharing discount that exceeds 100 percent of avoided costs by reference to one or more exceptions specified by that provision. In addition, Rule 3010.14(b)(6) requires the Postal Service to explain discounts that are set “substantially” below 100 percent of avoided costs. The workshare discounts, cost differentials and passthroughs shown in Attachment B to the Postal Service’s notice use the avoided cost data from the FY 2010 ACD.

The Public Representative notes that certain changes to analytical principles for periodic reporting submitted by the Postal Service to the Commission were included in the FY 2010 Annual Compliance Review but were subsequently modified¹¹ or not approved by the Commission. The Postal Service’s current filing does not use cost data updated for changes to analytical principles in periodic reporting decided on by the Commission after the FY 2010 ACD. The Commission’s rules should be revised to require the use of the updated cost data to ensure an accurate estimate of cost avoidance in workshare discounts.

The discounts in USPS-FY 10-3 have been replaced by the discounts included in the new prices. Notice at 32.

¹⁰ See Docket No. MC 2011-27 Comments from NPPC Pg 2 that the “Postal Service handles and processes two-ounce First-Class letters no differently than one-ounce letters.

¹¹ Order No. 741, June 3, 2011.

First Class QBRM

The passthroughs of the avoided costs underlying the discounts for both QBRM Letters and QBRM postcards are 157.1 percent. The Postal Service points out that this is a reduction from the passthrough of 176.9 percent as filed by the Postal Service in Docket No. R2011-2 and the 164.3 percent shown in the Commission's work papers. *Id.* at 33. The Postal service further notes that even with a greater than 100 percent passthrough, the increase in price of QBRM letters is 2.6 percent and the price increase for QBRM cards is 11.6 percent. In this docket, the Postal Service has also requested an incentive for outgoing QBRM type pieces to keep these pieces in the mail stream by increasing the qualifying weight for presort letters from 1 to 2 ounces. Reducing the discount and raising QBRM prices would undercut its objectives. The Postal Service thus justifies a greater than 100 percent passthrough pursuant to section 3622(e)(2)(A). Section 3622(e)(2)(A) specifies an exception to the 100 percent passthrough limitation if the discount is associated with: (1) a new postal service, (2) a change to an existing postal service or (3) with a new workshare initiative related to an existing postal service and necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost avoided by the Postal Service as a result of the workshare activity will be phased out over a period of time. While passthroughs exceeding 100 percent are generally undesirable, under the present economic circumstances the Public Representative does not oppose these passthroughs.

The discount for AADC Automation Letters in relation to its benchmark, Mixed AADC Automation Letters, is in excess of avoided costs. The Postal Service cites the availability of excess mail processing capacity and upcoming network optimization as reasons to encourage additional worksharing (sortation to AADC, or 3-didgit, rather than mixed-AADC.) This it is claimed will not only enhance efficiency, but also maximize the Postal Service's ability to meet service commitments. Thus for AADC Letters, the passthrough exceeds 100 percent and is also justified by the Postal Service pursuant to

section 3622(e)(2)(A). The existence of excess capacity in mail processing and the need for network realignment seem obvious to the Public Representative. However the Public Representative isn't aware that the existence of excess capacity constitutes a valid exception to the 100 percent pass through rule under Section 3622(e)(2). In fact, it would seem contradictory to Section 3622(e)(2)(A)(ii) in that this type of pricing would seem to perpetuate inefficient operations.

Standard Mail Flats

The Flats product has two discounts that exceed 100 percent of avoided costs: the pre-barcoding discount between automation and nonautomation flats, and the presort discount for automation ADC flats, which exceeds an "anomalous" negative avoided cost estimate. The Postal Service believes that this costing anomaly exists because of the lack of class specific piece density data available in its sort programs. Notice at 38. The Postal Service indicates that it would lead to inefficient operations to use these avoided costs and price ADC automation flats above Mixed ADC flats, which could discourage presorting. Thus, the Postal Service's justification for this discount is based on section 3622(e)(2)(D) which specifies an exception to the in excess of 100 percent passthrough if reduction or elimination of the discount would impede the efficient operation of the Postal Service.

The discount for prebarcoding, which was reduced from 6.2 cents to 5.7 cents in April, 2011, is maintained at that level in this docket. The Postal service continues to justify its proposed discount also by reference to 3622(e)(2)(D). Its objective is to encourage as many flats as possible to ensure the successful implementation of the Flats Sequencing System (FSS) program. However, the Postal Service believed that an extra incentive for prebarcoding would not be required permanently to make the FSS program successful, noting that "... it should be possible to gradually eliminate the excessive incentive." *Id.* at 39.

The Public Representative, in ACD 2010, was highly critical of the below average rate increase proposed for Standard Mail Flats in Docket No. R2011-2. (ACD 2010, Public Representative Comments at 5.) The Commission in ACD 2010 found that the..." PAEA permits the Postal Service sufficient operational and pricing flexibility to allow it to accomplish its long-term goals for standard mail flats as advanced in Docket No. R2010-4. It has simply chosen not to utilize that flexibility with respect to Standard Mail Flats." (ACD 2010, P. 106) In the current docket an increase slightly above the CPI cap has been proposed. The Public Representative supports attempts to move cost coverage for this product towards 100 percent as well as the reduction of workshare discounts closer to avoided costs in order to stabilize the Postal Service's finances. While the Public Representative supports the successful implementation of FSS, it is the Public Representative's belief that over time the FSS System should stand on its own without the need for large scale subsidies.

4. Mail Classification Schedule Changes

The Postal Service's Notice includes proposed changes to the Mail Classification Schedule that implement the planned price adjustments. Notice at 50. The Postal Service has provided language that includes descriptions of the classification name changes for Not Flat Machinables (NFM)s/Parcels product in Standard Mail to Parcels. Additionally, revised price categories are made for Marketing Parcels, Nonprofit Machinable Parcels and Nonprofit Irregular Parcels, and Nonprofit Irregular Parcels. *Id.* The Postal Service has also made minor corrections to update and delete language no longer applicable to its current product offerings. The MCS change which describes the exemption of qualifying First-Class Mail, Standard Mail, and Package Services full service Intelligent Mail barcode mailings from paying mailing fees supports the objective of the use of the Postal Service's IMB system.

The Postal Service provides a reasonable explanation for its changes to the MCS and the language proposed for the changes supplies adequate descriptions.

If the Commission approves the price adjustments in this proceeding it has received draft MCS language reflecting specific classification changes from the Postal Service in accordance with 39 CFR 3010.14(b)(9).

Respectfully Submitted,
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